IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO.2921 OF 2006

In

APPEAL (L) NO.444 OF 2006

In

NOTICE OF MOTION NO.85 OF 2005

In

WRIT PETITION NO.1347 OF 1986

Dr.Malti Maganlal Shah : Appellant

V/s.

Varsha Narendra Shah : Respondent

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Mr.I.V.Rao for the appellant.

Mrs.Deepa Chavan i/b. Mr.Sameer Bhadari for the respondent.

...

CORAM : R.M.LODHA & S.A.BOBDE,JJ.

DATE : NOVEMBER 17, 2006.

P.C.

Heard Mr.I.V.Rao, the counsel for the appellant.

2. The counsel for the appellant, at the outset, handed in additional affidavit of the appellant. We perused the said affidavit. We also perused the affidavit dated 23.8.2006 filed by the appellant in support of the Notice

of Motion. The additional affidavit filed today explains the drafting of the appeal by the appellant's Advocate on 26.7.2005. Though the application for certified copy of the judgement was made on that day, the copy was ready only on 29.8.2005. The delay in filing the appeal seems to have occurred because of misrepresentation and misconduct of Anil Bhor, Clerk of the appellant's Advocate.

3. We are, thus, satisfied that the appellant was prevented by sufficient cause in filing the appeal in time.

4. The delay in filing the appeal is condoned.

5. Office is directed to process the appeal and post it for admission.

6. Notice of Motion stands disposed of.

R.M. LODHA, J.

S.A. BOBDE, J.